

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-684(ENV)

Plaintiff, :

-against- : United States Courthouse

ELGIN BRACK, : Brooklyn, New York

Defendant. : March 12, 2020

: 11:45 o'clock a.m.

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TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE ERIC N. VITALIANO  
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government: RICHARD P. DONOGHUE  
United States Attorney  
BY: PHILIP A. SELDEN  
JONATHAN SIEGEL  
JONATHAN LAX  
Assistant United States Attorneys  
271 Cadman Plaza East  
Brooklyn, New York

For the Defendant: JOEL M. STEIN, ESQ.  
GARY FARRELL, ESQ.

Court Reporter: Charleane M. Heading  
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Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

1 (In open court; outside the presence of the jury.)

2 THE CLERK: The Honorable Eric N. Vitaliano  
3 presiding.

4 The case on the calendar is USA v. Elgin Brack, Case  
5 Number 18-CR-684, on for a jury trial.

6 Will the attorneys please note their appearance  
7 beginning with government counsel.

8 MR. SELDEN: Good morning, Your Honor. On behalf of  
9 the United States, Assistant United States Attorney Phil  
10 Selden. I'm joined at counsel table by Assistant United  
11 States Attorney Jonathan Siegel and Assistant United States  
12 Attorney Jonathan Lax. Good morning.

13 THE COURT: Good morning all.

14 MR. STEIN: Good morning, Your Honor. Joel Stein  
15 for Elgin Brack.

16 MR. FARRELL: And Gary Farrell also for Mr. Brack.

17 THE COURT: Good morning.

18 Good morning.

19 THE CLERK: Counsel for both sides are present  
20 including the defendant.

21 THE COURT: Good morning, Mr. Brack.

22 THE DEFENDANT: Good morning.

23 THE COURT: Any housekeeping before we turn to  
24 satisfying jury requests?

25 MR. SELDEN: I think we've addressed several of the

1 jury requests, Your Honor, with regards to counsel for  
2 Mr. Brack, but there are a few points of discussion that we'd  
3 like to raise.

4 As an initial matter, the parties don't appear to  
5 have any additions or subtractions to the government's  
6 proposed transcript for Mr. Deleon. We have one copy of that  
7 transcript and it's my understanding Your Honor typically  
8 sends back one copy.

9 THE COURT: One copy. Everybody works at the same  
10 time off the same thing.

11 MR. SELDEN: Exactly.

12 Your Honor, relating to that, the government has a  
13 copy of Government's Exhibits 130 through 132 that were  
14 associated with that transcript as well as 135. 135 is the  
15 notepad. We wanted to, just out of an abundance of caution,  
16 make sure those things had gone back. So there was no  
17 objection of Mr. Farrell sending those items back.

18 With regards to Mr. Deleon, we think there is  
19 nothing really more to discuss on the government's side of the  
20 house. With regards to Mr. Brack's transcript, we have agreed  
21 to the proposed redactions by both sides. We have three pages  
22 that we're just updating and that those redactions we believe  
23 will be incorporated shortly and they can be done during the  
24 pendency of when the jury is actually watching the videos.

25 In terms of the videos, we are in agreement with

1 regards to the particular videos and we've decided to cue up  
2 the videos with regard to certain videos will play in their  
3 entirety and certain videos, because they have downtime in  
4 them with no actual case related evidence. We refer to  
5 starting Government's Exhibit 402H at minute 1:20 and go to  
6 the end of that video. It avoids having to watch potentially  
7 minutes and/or sort of extra time that the jury might not be  
8 interested in. If they come back and feel they would like to  
9 watch that downtime, I think the parties are happy to do that.

10 Relating to the actual videos being played, the  
11 government's proposal is that the jurors be instructed that  
12 they should be allowed to, with a notepad -- for example, if  
13 they wanted to pause a video, we will note each video that  
14 we're playing, we will note the time that we're playing, for  
15 example, we are starting Government's Exhibit 402H at minute  
16 1:20 and we are playing this to the end. That way, the jury  
17 can actually note if they wanted to follow up, for example,  
18 Your Honor, I'd like to watch Government's Exhibit 402H and  
19 we'd like to pause at second, and they would insert the  
20 second. That way, we're not having an interactive colloquy  
21 with the jury, obviously, in the courtroom, but they could be  
22 allowed to pause if they want.

23 So our proposal would be to allow them to have a  
24 notepad and that they would be able to do that if that is  
25 something that the Court normally does.

1 THE COURT: They would write it down and then we  
2 would re-cue the video, is that what you're saying?

3 MR. SELDEN: Essentially, our concern is that the  
4 jury might watch a video and while they're not allowed to say,  
5 well, Your Honor, I have a question about that video, I want  
6 to talk to my fellow jurors about that video, or, you know,  
7 can we pause it at second 5 of the video, they would at least  
8 be, by Your Honor's admonishment, told that, listen, we're  
9 going to play some videos and if you're interested in pausing  
10 the videos at any time, you'll have the notepad in front of  
11 you. You should not pass the note to us here in the courtroom  
12 but if you do want to pause the audio, you can go back in the  
13 jury room and sort of do that, if you like.

14 Our other request that we would ask is that the  
15 lights be briefly dimmed for these videos. We think it would  
16 be helpful for the jury to be able to see. And then finally  
17 the --

18 THE COURT: While they write notes though?

19 MR. SELDEN: It's part of the challenge, Your Honor.

20 THE COURT: That's a challenge I fail all the time  
21 though.

22 MR. SELDEN: Thank you, Your Honor.

23 And in part, the government would also ask because  
24 during the testimony, there were periods where in the  
25 government's case in chief we played certain videos several

1 times. We played them several times because the facts and  
2 circumstances of this case involve a brief set of  
3 interactions, albeit those interactions were significant, a  
4 brief set of interactions.

5 The government's proposal would be we would play  
6 these videos for the jury, each video three times. It would  
7 allow them the opportunity hopefully to avoid having to send  
8 us back notes and say, Please come back, we'd like to watch a  
9 video again. It really would, in our mind, expedite the  
10 process to let them at least see them not just once.

11 THE COURT: You're talking about each of the videos  
12 you show, playing them three times apiece?

13 MR. SELDEN: Yes, Your Honor.

14 THE COURT: So there will be no distinction as  
15 between one video and another; that one is played once and the  
16 other one is played three times?

17 MR. SELDEN: Exactly, Your Honor.

18 MR. STEIN: Judge, we're opposed to that. The jury  
19 didn't specify that. If they want to see another video, a  
20 particular video more than once, then they can ask for it.

21 THE COURT: Yes. I think that seems to be belt and  
22 suspenders, Mr. Selden. I do agree with the idea of letting  
23 them take a note, write notes, because I think we can tell  
24 them that they can, that's for their note-taking, for  
25 discussion when they go back into the jury room. And if they

1 want to see videos again, to be as specific as they can as to  
2 which video they want to see.

3 So we'll have William advise the marshal before they  
4 bring the jury out that the jury may bring notepads from the  
5 jury room with them if they so desire.

6 THE CLERK: Okay.

7 THE COURT: Are we otherwise ready for the jury?

8 MR. FARRELL: Yes, Your Honor. From the defense  
9 point of view, we're certainly ready.

10 THE COURT: Nothing else from the government?

11 MR. SELDEN: Your Honor, just to clarify, before  
12 each video, we just want to make clear that the government's  
13 proposal would be Mr. Siegel would actually announce the  
14 video --

15 THE COURT: Yes.

16 MR. SELDEN: -- by exhibit number and then what time  
17 is going to be played just so that it's clear for the jury.

18 THE COURT: If you have both the beginning and the  
19 ending time, that would be helpful as well.

20 Do you have that on your list, Mr. Siegel?

21 MR. SIEGEL: Yes, Your Honor.

22 THE COURT: So they'll know what to expect.

23 MR. SELDEN: Your Honor --

24 THE COURT: And if the downtime is taken out of it,  
25 if you know how long in running time, you know, 10 seconds,

1 40 seconds, 1 minute and 2 seconds, you can announce that as  
2 well, Mr. Siegel.

3 MR. SIEGEL: Thank you, Your Honor.

4 MR. SELDEN: Your Honor, there was one additional  
5 request in the jurors' note with regards to adjusted time.  
6 One interpretation to that is adjusting the time of the  
7 relevant actions. Another interpretation is the adjusted time  
8 based on the qualification that is in Government's S-9.

9 THE COURT: I'm going to interpret it as that it is  
10 what Mr. Siegel read as part of the stipulation.

11 MR. SELDEN: Thank you, Your Honor.

12 MR. SIEGEL: So, Your Honor, will you just refer  
13 them to S-9 for the adjustments?

14 THE COURT: Correct.

15 MR. SIEGEL: Thank you.

16 THE COURT: And, again, that's what we sent into  
17 them yesterday, right? We thought they had had it and they  
18 didn't have it, is that the one?

19 MR. SELDEN: Yes, Your Honor. And we think they  
20 might have it in the back of their binder. That's where it  
21 might be. It might not be clear to them. In any event, yes,  
22 that is the S-9.

23 There's nothing further from the government  
24 housekeeping-wise. Thank you.

25 THE COURT: Okay. Then William will advise the



1 marshal and then when they're ready, bring them in.

2 THE COURT: Both transcripts will go back at the  
3 same time, is that it?

4 MR. SELDEN: That's our proposal, Your Honor.

5 THE COURT: You believe you'll be ready when the  
6 jury comes back?

7 MR. SELDEN: Whether or not it's right as they're  
8 walking back or shortly thereafter, maybe a minute or two  
9 afterwards, Your Honor. We're having the extra transcript  
10 brought over now.

11 THE COURT: Okay.

12 MR. SELDEN: Thank you.

13 (Jury enters at 12:05 p.m.)

14 THE COURT: Be seated, please.

15 Counsel will stipulate that the jury is present and  
16 properly seated.

17 MR. SELDEN: On behalf of the government, yes,  
18 Your Honor.

19 MR. STEIN: Yes, Judge.

20 THE COURT: Thank you, Counsel.

21 Ladies and gentlemen, good day. It's good to have  
22 you back. We think we're in a position now. We almost have  
23 the transcripts all up to snuff so we'll be sending them in as  
24 soon as possible after you return to the jury room but we are  
25 ready to address the issue of playing the tapes.

1           You were advised you could bring a notepad if you  
2 want to sort of jot things down and for use when you, not  
3 here, for use not to discuss things in the jury box in front  
4 of all of us, but to help facilitate your discussions of, of  
5 the videotapes when you return to the jury room. Also, to the  
6 extent that you want to see something again, it will be  
7 helpful to keep in mind the exhibit number and try to be very  
8 precise in your request for any replays so we can avoid  
9 showing all of the tapes and go directly, save some time and  
10 go directly to the tape that members of the jury or tapes that  
11 members the jury want to see replayed.

12           With respect to the adjustments for time, they're  
13 laid out in that stipulation, Government's S-9. So you can  
14 consult that stipulation with respect to any of the tapes and  
15 you have will be able to make a computation as to whether the,  
16 first identify whether it's in real time and, secondly, if  
17 it's not, what the adjustment factor is:

18           So with that, we are ready to play the videotapes  
19 for you. William is going to dim the lights so you're going  
20 to have to get close to your notepad if you want to take notes  
21 and hopefully everything will go smoothly but, you know,  
22 electronics are electronics and this courtroom tends to be a  
23 challenge so we will hope for the best.

24           Mr. Siegel, you're the one tasked with this?

25           MR. SIEGEL: Yes. Thank you, Your Honor.

1           Your Honor, I'm going to begin with Government  
2 Exhibit 402A and we are going to play that entire video.

3           THE COURT: Do you know how long it is, running  
4 time, Mr. Siegel? Is that data that you have? You either  
5 have it or don't have it.

6           (Video played.) (Video stopped.)

7           MR. SIEGEL: It was just a few seconds long. I just  
8 played it, 8 seconds long.

9           (Video played.) (Video stopped.)

10          MR. SIEGEL: Government Exhibit 402A.

11          I'm now going to play Government Exhibit 402B which  
12 is also 8 seconds long.

13          (Video played.) (Video stopped.)

14          MR. SIEGEL: I'm now going to play 402C which is  
15 1 minute and 11 seconds.

16          (Video played.) (Video stopped.)

17          MR. SIEGEL: Your Honor, I'm now going to play 402H.  
18 402H is 1 minute and 28 seconds long. I'm going to start at  
19 1 minute and 20 seconds into the video and go to the end.

20          (Video played.) (Video stopped.)

21          MR. SIEGEL: Your Honor, I am now going to play  
22 Government Exhibit 402I which is 24 seconds long. I'm going  
23 to start at second 15 of the video and play until the end.

24          (Video played.) (Video stopped.)

25          MR. SIEGEL: Your Honor, I'm now going to play 408A

1 which is 14 seconds long.

2 (Video played.) (Video stopped.)

3 MR. SIEGEL: Your Honor, I'm next going to play 408B  
4 which is 28 seconds long.

5 (Video played.) (Video stopped.)

6 MR. SIEGEL: Your Honor, I'm going to play 408C  
7 which is ten seconds long.

8 (Video played.) (Video stopped.)

9 MR. SIEGEL: Your Honor, I'll now play 408D which is  
10 8 seconds long.

11 (Video played.) (Video stopped.)

12 MR. SIEGEL: Your Honor, I'm now going to play 408E.  
13 408E is 8 minutes and 20 seconds long, however, I'm going to  
14 start the video at 2 minutes and 20 seconds into the video and  
15 I'm going to stop it at approximately 7 minutes and 2 seconds  
16 into the video.

17 (Video played.) (Video stopped.)

18 MR. SIEGEL: Your Honor, I'm now going to play  
19 Government Exhibit 411A. That is a 2 minute and 58 second  
20 video. I'm going to play it in two parts. First, I'm going  
21 to play from 15 seconds to 26 seconds. And then I'm going to  
22 play from 2 minute and 10 seconds to 2 minutes and 25 seconds.

23 (Video played.) (Video stopped.)

24 MR. SIEGEL: Your Honor, I'm now going to play  
25 Government Exhibit 411B which is a 2 minute and 59 second

1 video. I'm going to play it again in two parts, first from  
2 20 seconds to 33 seconds and then from 1 minute and 7 seconds  
3 to 2 minutes and 25 seconds.

4 (Video played.) (Video stopped.)

5 MR. SIEGEL: Your Honor, I'm now going to play 411C,  
6 Government Exhibit 411C, which is a 2 minute and 58 second  
7 video. I'm going to play it first from 25 seconds to  
8 33 seconds and then the segment from 1 minute and 5 seconds to  
9 1 minute and 15 seconds.

10 (Video played.) (Video stopped.)

11 MR. SIEGEL: Your Honor, I'm now going to play  
12 Government Exhibit 414A and I'm going to play that which is a  
13 28 second video and I'm going to play that from 10 seconds to  
14 the end.

15 (Video played.) (Video stopped.)

16 MR. SIEGEL: Your Honor, I'm going to play  
17 Government Exhibit 414B. That is 1 minute and 35 seconds  
18 long. I'm going to play it from the start until 45 seconds in  
19 at which point I will stop.

20 (Video played.) (Video stopped.)

21 MR. SIEGEL: Your Honor, I will now play 417A. That  
22 is a 45 second video. I'm going to play the entire video.

23 (Video played.) (Video stopped.)

24 MR. SIEGEL: Your Honor, I will now play Government  
25 Exhibit 417B which is a 36 second video and I will play the

1 entire video.

2 (Video played.) (Video stopped.)

3 MR. SIEGEL: Now, Your Honor, I will play Government  
4 Exhibit 421 which is 43 seconds long and I will play the  
5 entire video.

6 (Video played.) (Video stopped.)

7 MR. SIEGEL: Thank you, Your Honor. That's all the  
8 videos.

9 THE COURT: Very good, Mr. Siegel.

10 All right. Ladies and gentlemen, that completes the  
11 videos. I'll let you go back into the jury room to continue  
12 your deliberations. Lunch we expect around 1 o'clock so you  
13 can lunch and deliberate at the same time.

14 We will await your next note. If you need anything  
15 more, please follow the process. You seem to have gotten it  
16 down very well yesterday. We will be sending in the  
17 transcripts of Mr. Deleon and Mr. Brack as soon as they're  
18 completed.

19 Again, we thank you for your attentiveness,  
20 sacrifice and continued cooperation. See you at your next  
21 note.

22 (Jury exits at 12:30 p.m.)

23 THE COURT: When the transcript is ready, you can  
24 hand them to William when he returns and they'll go in.

25 MR. SELDEN: Thank you, Your Honor.

1 THE COURT: Otherwise, stay in touch with William  
2 and wait for the next note.

3 (Court is in recess awaiting verdict of the jury.)  
4

5 (In open court; outside the presence of the jury.)

6 THE CLERK: Counsel for both sides are present  
7 including the defendant.

8 THE COURT: All right. The marshal advises they've  
9 provided us with a note that the Clerk has marked as Court's  
10 Exhibit 6 and the deputy clerk will read it into the record.

11 THE CLERK: "Your Honor, we the jurors have a  
12 verdict."

13 THE COURT: All right. We will summon the jury and  
14 take their verdict.

15 In the interim, we received another note which is  
16 now marked as Court's Exhibit 7.

17 THE CLERK: "Your Honor, do you need the verdict  
18 sheet? We have a verdict."

19 THE COURT: Yes, we do need the verdict sheet and  
20 I'll tell them to bring it in with them.

21 (Jury enters at 2:40 p.m.)

22 THE COURT: Be seated, please.

23 Counsel will stipulate that the jury is present and  
24 properly seated.

25 MR. SELDEN: On behalf of the government, yes,

1 Your Honor.

2 MR. STEIN: Yes, Judge.

3 THE COURT: Thank you, Counsel.

4 Ladies and gentlemen, we know from your note that  
5 you have indicated to us you reached a verdict. I'm going to  
6 ask the foreperson to hand the verdict sheet to the deputy  
7 clerk.

8 (Pause.)

9 THE COURT: The jury has answered all questions that  
10 need to be answered and the deputy clerk will return the  
11 verdict sheet to the foreperson and take the verdict.

12 THE CLERK: Please stand.

13 Count One: Hobbs Act robbery conspiracy.

14 As to Count One of the indictment, how do you find  
15 defendant Elgin Brack, guilty or not guilty?

16 THE FOREPERSON: Guilty.

17 THE CLERK: Count Two: Attempted Hobbs Act robbery.

18 As to Count Two of the indictment, how do you find  
19 defendant Elgin Brack, guilty or not guilty?

20 THE FOREPERSON: Guilty.

21 THE CLERK: Count 3: Possessing, brandishing and  
22 discharging a firearm during a crime of violence.

23 One: Do you find that the government has proven  
24 beyond a reasonable doubt that the firearm was possessed by  
25 defendant Elgin Brack during and in relation to the crime



1 charged in Count Two? Yes or no.

2 THE FOREPERSON: Yes.

3 THE CLERK: Do you find that the government has  
4 proven beyond a reasonable doubt that a firearm was brandished  
5 by defendant Elgin Brack during and in relation to the crime  
6 charged in Count Two? Yes or no.

7 THE FOREPERSON: Yes.

8 THE CLERK: Three: Do you find that the government  
9 has proven beyond reasonable doubt that a firearm was  
10 discharged by defendant Elgin Brack during and in relation to  
11 the crime charged in Count Two? Yes or no.

12 THE FOREPERSON: Yes.

13 THE CLERK: Count Four: Hobbs Act robbery.

14 As to County Four of the indictment, how do you find  
15 defendant Elgin Brack, guilty or not guilty?

16 THE FOREPERSON: Guilty.

17 THE CLERK: Count Five: Possessing and brandishing  
18 a firearm during a crime of violence.

19 One: Do you find that the government has proven  
20 beyond a reasonable doubt that a firearm was possessed by  
21 defendant Elgin Brack during and in relation to the crime  
22 charged in Count Four? Yes or no.

23 THE FOREPERSON: Yes.

24 THE CLERK: Two: Do you find that the government  
25 has proven beyond a reasonable doubt that a firearm was

1 brandished by defendant Elgin Brack during and in relation to  
2 the crime charged in Count Four? Yes or no.

3 THE FOREPERSON: Yes.

4 THE CLERK: Count Six, Hobbs Act robbery.

5 As to Count Six of the indictment, how do you find  
6 defendant Elgin Brack, guilty or not guilty?

7 THE FOREPERSON: Guilty.

8 THE CLERK: Count Seven: Possessing and brandishing  
9 a firearm during a crime of violence.

10 One: Do you find that the government has proven  
11 beyond a reasonable doubt that a firearm was possessed by  
12 defendant Elgin Brack during and in relation to the crime  
13 charged in Count Six? Yes or no.

14 THE FOREPERSON: Yes.

15 THE CLERK: Two: Do you find that the government  
16 has proven beyond a reasonable doubt that a firearm was  
17 brandished by defendant Elgin Brack during and in relation to  
18 the crime charged in Count Six? Yes or no.

19 THE FOREPERSON: Yes.

20 THE CLERK: Count Eight. Hobbs Act Robbery.

21 As to Count Eight of the indictment, how do you find  
22 defendant Elgin Brack, guilty or not guilty?

23 THE FOREPERSON: Guilty.

24 THE CLERK: Count Nine: Possessing and brandishing  
25 a firearm during a crime of violence.

1           One: Do you find that the government has proven  
2 beyond a reasonable doubt that a firearm was possessed by  
3 defendant Elgin Brack during and in relation to the crime  
4 charged in Count Eight? Yes or no.

5           THE FOREPERSON: Yes.

6           THE CLERK: Two: Do you find that the government  
7 has proven beyond a reasonable doubt that a firearm was  
8 brandished by defendant Elgin Brack during and in relation to  
9 the crime charged in Count Eight? Yes or no.

10          THE FOREPERSON: Yes.

11          THE CLERK: Thank you.

12          THE COURT: Does either side wish the jury polled  
13 with respect to any counts?

14          MR. STEIN: Yes, Judge, as to all counts.

15          THE COURT: All counts. The Deputy Clerk will poll  
16 the jury.

17          THE CLERK: As to Count One of the indictment, how  
18 do you find defendant Elgin Brack, guilty or not guilty? Your  
19 verdict was guilty.

20          Juror Number One, is that your verdict?

21          JUROR NUMBER ONE: Yes.

22          THE CLERK: Juror Number Two, is that your verdict?

23          JUROR NUMBER TWO: Yes.

24          THE CLERK: Juror Number Three, is that your  
25 verdict?

1 JUROR NUMBER THREE: Yes.

2 THE CLERK: Juror Number Four, is that your verdict?

3 JUROR NUMBER FOUR: Yes.

4 THE CLERK: Juror Number Five, is that your verdict?

5 JUROR NUMBER FIVE: Yes.

6 THE CLERK: Juror Number Six, is that your verdict?

7 JUROR NUMBER SIX: Yes.

8 THE CLERK: Juror Number Seven, is that your

9 verdict?

10 JUROR NUMBER SEVEN: Yes.

11 THE CLERK: Juror Number Eight, is that your

12 verdict?

13 JUROR NUMBER EIGHT: Yes.

14 THE CLERK: Juror Number Nine, is that your verdict?

15 JUROR NUMBER NINE: Yes.

16 THE CLERK: Juror Number Ten, is that your verdict?

17 JUROR NUMBER TEN: Yes.

18 THE CLERK: Juror Number Eleven, is that your

19 verdict?

20 JUROR NUMBER ELEVEN: Yes.

21 THE CLERK: Juror Number Twelve, is that your

22 verdict?

23 JUROR NUMBER TWELVE: Yes.

24 THE CLERK: As to Count Two of the indictment, how  
25 do you find defendant Elgin Brack, guilty or not guilty? Your

1 verdict was guilty.

2 Juror Number One, is that your verdict?

3 JUROR NUMBER ONE: Yes.

4 THE CLERK: Juror Number Two, is that your verdict?

5 JUROR NUMBER TWO: Yes.

6 THE CLERK: Juror Number Three, is that your  
7 verdict?

8 JUROR NUMBER THREE: Yes.

9 THE CLERK: Juror Number Four, is that your verdict?

10 JUROR NUMBER FOUR: Yes.

11 THE CLERK: Juror Number Five, is that your verdict?

12 JUROR NUMBER FIVE: Yes.

13 THE CLERK: Juror Number Six, is that your verdict?

14 JUROR NUMBER SIX: Yes.

15 THE CLERK: Juror Number Seven, is that your  
16 verdict?

17 JUROR NUMBER SEVEN: Yes.

18 THE CLERK: Juror Number Eight, is that your  
19 verdict?

20 JUROR NUMBER EIGHT: Yes.

21 THE CLERK: Juror Number Nine, is that your verdict?

22 JUROR NUMBER NINE: Yes.

23 THE CLERK: Juror Number Ten, is that your verdict?

24 JUROR NUMBER TEN: Yes.

25 THE CLERK: Juror Number Eleven, is that your

1 verdict?

2 JUROR NUMBER ELEVEN: Yes.

3 THE CLERK: Juror Number Twelve, is that your  
4 verdict?

5 JUROR NUMBER TWELVE: Yes.

6 THE CLERK: Count Three: Possessing, brandishing  
7 and discharging a firearm during a crime of violence.

8 One: Do you find that the government has proven  
9 beyond a reasonable doubt that a firearm was possessed by  
10 defendant Elgin Brack during and in relation to the crime  
11 charged in Count Two? Your verdict was yes.

12 Juror Number One, is that your verdict?

13 JUROR NUMBER ONE: Yes.

14 THE CLERK: Juror Number Two, is that your verdict?

15 JUROR NUMBER TWO: Yes.

16 THE CLERK: Juror Number Three, is that your  
17 verdict?

18 JUROR NUMBER THREE: Yes.

19 THE CLERK: Juror Number Four, is that your verdict?

20 JUROR NUMBER FOUR: Yes.

21 THE CLERK: Juror Number Five, is that your verdict?

22 JUROR NUMBER FIVE: Yes.

23 THE CLERK: Juror Number Six, is that your verdict?

24 JUROR NUMBER SIX: Yes.

25 THE CLERK: Juror Number Seven, is that your

1 verdict?

2 JUROR NUMBER SEVEN: Yes.

3 THE CLERK: Juror Number Eight, is that your  
4 verdict?

5 JUROR NUMBER EIGHT: Yes.

6 THE CLERK: Juror Number Nine, is that your verdict?

7 JUROR NUMBER NINE: Yes.

8 THE CLERK: Juror Number Ten, is that your verdict?

9 JUROR NUMBER TEN: Yes.

10 THE CLERK: Juror Number Eleven, is that your  
11 verdict?

12 JUROR NUMBER ELEVEN: Yes.

13 THE CLERK: Juror Number Twelve, is that your  
14 verdict?

15 JUROR NUMBER TWELVE: Yes.

16 THE CLERK: Two: Do you find the government has  
17 proven beyond a reasonable doubt that a firearm was brandished  
18 by defendant Elgin Brack during and in relation to the crime  
19 charged in Count Two? Your verdict was yes.

20 Juror Number One, is that your verdict?

21 JUROR NUMBER ONE: Yes.

22 THE CLERK: Juror Number Two, is that your verdict?

23 JUROR NUMBER TWO: Yes.

24 THE CLERK: Juror Number Three, is that your  
25 verdict?

1 JUROR NUMBER THREE: Yes.

2 THE CLERK: Juror Number Four, is that your verdict?

3 JUROR NUMBER FOUR: Yes.

4 THE CLERK: Juror Number Five, is that your verdict?

5 JUROR NUMBER FIVE: Yes.

6 THE CLERK: Juror Number Six, is that your verdict?

7 JUROR NUMBER SIX: Yes.

8 THE CLERK: Juror Number Seven, is that your

9 verdict?

10 JUROR NUMBER SEVEN: Yes.

11 THE CLERK: Juror Number Eight, is that your

12 verdict?

13 JUROR NUMBER EIGHT: Yes.

14 THE CLERK: Juror Number Nine, is that your verdict?

15 JUROR NUMBER NINE: Yes.

16 THE CLERK: Juror Number Ten, is that your verdict?

17 JUROR NUMBER TEN: Yes.

18 THE CLERK: Juror Number Eleven, is that your

19 verdict?

20 JUROR NUMBER ELEVEN: Yes.

21 THE CLERK: Juror Number Twelve, is that your

22 verdict?

23 JUROR NUMBER TWELVE: Yes.

24 THE CLERK: Do you find that the government has

25 proven beyond a reasonable doubt that a firearm was discharged



1 by defendant Elgin Brack during and in relation to the crime  
2 charged in Count Two? You answered yes.

3 Juror Number One, is that your verdict?

4 JUROR NUMBER ONE: Yes.

5 THE CLERK: Juror Number Two, is that your verdict?

6 JUROR NUMBER TWO: Yes.

7 THE CLERK: Juror Number Three, is that your  
8 verdict?

9 JUROR NUMBER THREE: Yes.

10 THE CLERK: Juror Number Four, is that your verdict?

11 JUROR NUMBER FOUR: Yes.

12 THE CLERK: Juror Number Five, is that your verdict?

13 JUROR NUMBER FIVE: Yes.

14 THE CLERK: Juror Number Six, is that your verdict?

15 JUROR NUMBER SIX: Yes.

16 THE CLERK: Juror Number Seven, is that your  
17 verdict?

18 JUROR NUMBER SEVEN: Yes.

19 THE CLERK: Juror Number Eight, is that your  
20 verdict?

21 JUROR NUMBER EIGHT: Yes.

22 THE CLERK: Juror Number Nine, is that your verdict?

23 JUROR NUMBER NINE: Yes.

24 THE CLERK: Juror Number Ten, is that your verdict?

25 JUROR NUMBER TEN: Yes.

1 THE CLERK: Juror Number Eleven, is that your  
2 verdict?

3 JUROR NUMBER ELEVEN: Yes.

4 THE CLERK: Juror Number Twelve, is that your  
5 verdict?

6 JUROR NUMBER TWELVE: Yes.

7 THE CLERK: As to Count Four of the indictment, how  
8 do you find defendant Elgin Brack, guilty or not guilty? Your  
9 verdict was guilty.

10 Juror Number One, is that your verdict?

11 JUROR NUMBER ONE: Yes.

12 THE CLERK: Juror Number Two, is that your verdict?

13 JUROR NUMBER TWO: Yes.

14 THE CLERK: Juror Number Three, is that your  
15 verdict?

16 JUROR NUMBER THREE: Yes.

17 THE CLERK: Juror Number Four, is that your verdict?

18 JUROR NUMBER FOUR: Yes.

19 THE CLERK: Juror Number Five, is that your verdict?

20 JUROR NUMBER FIVE: Yes.

21 THE CLERK: Juror Number Six, is that your verdict?

22 JUROR NUMBER SIX: Yes.

23 THE CLERK: Juror Number Seven, is that your  
24 verdict?

25 JUROR NUMBER SEVEN: Yes.

1 THE CLERK: Juror Number Eight, is that your  
2 verdict?

3 JUROR NUMBER EIGHT: Yes.

4 THE CLERK: Juror Number Nine, is that your verdict?

5 JUROR NUMBER NINE: Yes.

6 THE CLERK: Juror Number Ten, is that your verdict?

7 JUROR NUMBER TEN: Yes.

8 THE CLERK: Juror Number Eleven, is that your  
9 verdict?

10 JUROR NUMBER ELEVEN: Yes.

11 THE CLERK: Juror Number Twelve, is that your  
12 verdict?

13 JUROR NUMBER TWELVE: Yes.

14 THE CLERK: Count Five: Possessing and brandishing  
15 a firearm during a crime of violence.

16 Question one: Do you find that the government has  
17 proven beyond a reasonable doubt that a firearm was possessed  
18 by defendant Elgin Brack during and in relation to the crime  
19 charged in Count Four? You answered yes.

20 Juror Number One, is that your verdict?

21 JUROR NUMBER ONE: Yes.

22 THE CLERK: Juror Number Two, is that your verdict?

23 JUROR NUMBER TWO: Yes.

24 THE CLERK: Juror Number Three, is that your  
25 verdict?

1 JUROR NUMBER THREE: Yes.

2 THE CLERK: Juror Number Four, is that your verdict?

3 JUROR NUMBER FOUR: Yes.

4 THE CLERK: Juror Number Five, is that your verdict?

5 JUROR NUMBER FIVE: Yes.

6 THE CLERK: Juror Number Six, is that your verdict?

7 JUROR NUMBER SIX: Yes.

8 THE CLERK: Juror Number Seven, is that your

9 verdict?

10 JUROR NUMBER SEVEN: Yes.

11 THE CLERK: Juror Number Eight, is that your

12 verdict?

13 JUROR NUMBER EIGHT: Yes.

14 THE CLERK: Juror Number Nine, is that your verdict?

15 JUROR NUMBER NINE: Yes.

16 THE CLERK: Juror Number Ten, is that your verdict?

17 JUROR NUMBER TEN: Yes.

18 THE CLERK: Juror Number Eleven, is that your

19 verdict?

20 JUROR NUMBER ELEVEN: Yes.

21 THE CLERK: Juror Number Twelve, is that your

22 verdict?

23 JUROR NUMBER TWELVE: Yes.

24 THE CLERK: Question Two: Do you find that the  
25 government has proven beyond a reasonable doubt that a firearm

1 was brandished by defendant Elgin Brack during and in relation  
2 to the crime charged in Count Four? Your answer was yes.

3 Juror Number One, is that your verdict?

4 JUROR NUMBER ONE: Yes.

5 THE CLERK: Juror Number Two, is that your verdict?

6 JUROR NUMBER TWO: Yes.

7 THE CLERK: Juror Number Three, is that your  
8 verdict?

9 JUROR NUMBER THREE: Yes.

10 THE CLERK: Juror Number Four, is that your verdict?

11 JUROR NUMBER FOUR: Yes.

12 THE CLERK: Juror Number Five, is that your verdict?

13 JUROR NUMBER FIVE: Yes.

14 THE CLERK: Juror Number Six, is that your verdict?

15 JUROR NUMBER SIX: Yes.

16 THE CLERK: Juror Number Seven, is that your  
17 verdict?

18 JUROR NUMBER SEVEN: Yes.

19 THE CLERK: Juror Number Eight, is that your  
20 verdict?

21 JUROR NUMBER EIGHT: Yes.

22 THE CLERK: Juror Number Nine, is that your verdict?

23 JUROR NUMBER NINE: Yes.

24 THE CLERK: Juror Number Ten, is that your verdict?

25 JUROR NUMBER TEN: Yes.

1 THE CLERK: Juror Number Eleven, is that your  
2 verdict?

3 JUROR NUMBER ELEVEN: Yes.

4 THE CLERK: And Juror Number Twelve, is that your  
5 verdict?

6 JUROR NUMBER TWELVE: Yes.

7 THE CLERK: Count Six: Hobbs Act robbery.

8 As to Count Six of the indictment, how do you find  
9 defendant Elgin Brack, guilty or not guilty? Your verdict was  
10 guilty.

11 Juror Number One, is that your verdict?

12 JUROR NUMBER ONE: Yes.

13 THE CLERK: Juror Number Two, is that your verdict?

14 JUROR NUMBER TWO: Yes.

15 THE CLERK: Juror Number Three, is that your  
16 verdict?

17 JUROR NUMBER THREE: Yes.

18 THE CLERK: Juror Number Four, is that your verdict?

19 JUROR NUMBER FOUR: Yes.

20 THE CLERK: Juror Number Five, is that your verdict?

21 JUROR NUMBER FIVE: Yes.

22 THE CLERK: Juror Number Six, is that your verdict?

23 JUROR NUMBER SIX: Yes.

24 THE CLERK: Juror Number Seven, is that your  
25 verdict?

1 JUROR NUMBER SEVEN: Yes.

2 THE CLERK: Juror Number Eight, is that your  
3 verdict?

4 JUROR NUMBER EIGHT: Yes.

5 THE CLERK: Juror Number Nine, is that your verdict?

6 JUROR NUMBER NINE: Yes.

7 THE CLERK: Juror Number Ten, is that your verdict?

8 JUROR NUMBER TEN: Yes.

9 THE CLERK: Juror Number Eleven, is that your  
10 verdict?

11 JUROR NUMBER ELEVEN: Yes.

12 THE CLERK: Juror Number Twelve, is that your  
13 verdict?

14 JUROR NUMBER TWELVE: Yes.

15 THE CLERK: Count Seven: Possessing and brandishing  
16 a firearm during a crime of violence.

17 Question one: Do you find that the government has  
18 proven beyond a reasonable doubt that a firearm was possessed  
19 by defendant Elgin Brack during and in relation to the crime  
20 charged in Count Six? Your answer was yes.

21 Juror Number One, is that your verdict?

22 JUROR NUMBER ONE: Yes.

23 THE CLERK: Juror Number Two, is that your verdict?

24 JUROR NUMBER TWO: Yes.

25 THE CLERK: Juror Number Three, is that your

1 verdict?

2 JUROR NUMBER THREE: Yes.

3 THE CLERK: Juror Number Four, is that your verdict?

4 JUROR NUMBER FOUR: Yes.

5 THE CLERK: Juror Number Five, is that your verdict?

6 JUROR NUMBER FIVE: Yes.

7 THE CLERK: Juror Number Six, is that your verdict?

8 JUROR NUMBER SIX: Yes.

9 THE CLERK: Juror Number Seven, is that your

10 verdict?

11 JUROR NUMBER SEVEN: Yes.

12 THE CLERK: Juror Number Eight, is that your

13 verdict?

14 JUROR NUMBER EIGHT: Yes.

15 THE CLERK: Juror Number Nine, is that your verdict?

16 JUROR NUMBER NINE: Yes.

17 THE CLERK: Juror Number Ten, is that your verdict?

18 JUROR NUMBER TEN: Yes.

19 THE CLERK: Juror Number Eleven, is that your

20 verdict?

21 JUROR NUMBER ELEVEN: Yes.

22 THE CLERK: Juror Number Twelve, is that your

23 verdict?

24 JUROR NUMBER TWELVE: Yes.

25 THE CLERK: Question two: Do you find that the



1 government has proven beyond a reasonable doubt that a firearm  
2 was brandished by defendant Elgin Brack during and in relation  
3 to the crime charged in Count Six? You answered yes.

4 Juror Number One, is that your verdict?

5 JUROR NUMBER ONE: Yes.

6 THE CLERK: Juror Number Two, is that your verdict?

7 JUROR NUMBER TWO: Yes.

8 THE CLERK: Juror Number Three, is that your  
9 verdict?

10 JUROR NUMBER THREE: Yes.

11 THE CLERK: Juror Number Four, is that your verdict?

12 JUROR NUMBER FOUR: Yes.

13 THE CLERK: Juror Number Five, is that your verdict?

14 JUROR NUMBER FIVE: Yes.

15 THE CLERK: Juror Number Six, is that your verdict?

16 JUROR NUMBER SIX: Yes.

17 THE CLERK: Juror Number Seven, is that your  
18 verdict?

19 JUROR NUMBER SEVEN: Yes.

20 THE CLERK: Juror Number Eight, is that your  
21 verdict?

22 JUROR NUMBER EIGHT: Yes.

23 THE CLERK: Juror Number Nine, is that your verdict?

24 JUROR NUMBER NINE: Yes.

25 THE CLERK: Juror Number Ten, is that your verdict?

1 JUROR NUMBER TEN: Yes.

2 THE CLERK: Juror Number Eleven, is that your  
3 verdict?

4 JUROR NUMBER ELEVEN: Yes.

5 THE CLERK: Juror Number Twelve, is that your  
6 verdict?

7 JUROR NUMBER TWELVE: Yes.

8 THE CLERK: Count Eight: Hobbs Act robbery.

9 As to Count Eight of the indictment, how do you find  
10 defendant Elgin Brack, guilty or not guilty? Your verdict was  
11 guilty.

12 Juror Number One, is that your verdict?

13 JUROR NUMBER ONE: Yes.

14 THE CLERK: Juror Number Two, is that your verdict?

15 JUROR NUMBER TWO: Yes.

16 THE CLERK: Juror Number Three, is that your  
17 verdict?

18 JUROR NUMBER THREE: Yes.

19 THE CLERK: Juror Number Four, is that your verdict?

20 JUROR NUMBER FOUR: Yes.

21 THE CLERK: Juror Number Five, is that your verdict?

22 JUROR NUMBER FIVE: Yes.

23 THE CLERK: Juror Number Six, is that your verdict?

24 JUROR NUMBER SIX: Yes.

25 THE CLERK: Juror Number Seven, is that your

1 verdict?

2 JUROR NUMBER SEVEN: Yes.

3 THE CLERK: Juror Number Eight, is that your  
4 verdict?

5 JUROR NUMBER EIGHT: Yes.

6 THE CLERK: Juror Number Nine, is that your verdict?

7 JUROR NUMBER NINE: Yes.

8 THE CLERK: Juror Number Ten, is that your verdict?

9 JUROR NUMBER TEN: Yes.

10 THE CLERK: Juror Number Eleven, is that your  
11 verdict?

12 JUROR NUMBER ELEVEN: Yes.

13 THE CLERK: Juror Number Twelve, is that your  
14 verdict?

15 JUROR NUMBER TWELVE: Yes.

16 THE CLERK: Count Nine: Possessing and brandishing  
17 a firearm during a crime of violence.

18 Question one: Do you find that the government has  
19 proven beyond a reasonable doubt that a firearm was possessed  
20 by defendant Elgin Brack during and in relation to the crime  
21 charged in Count Eight? You answered yes.

22 Juror Number One, is that your verdict?

23 JUROR NUMBER ONE: Yes.

24 THE CLERK: Juror Number Two, is that your verdict?

25 JUROR NUMBER TWO: Yes.

1 THE CLERK: Juror Number Three, is that your  
2 verdict?

3 JUROR NUMBER THREE: Yes.

4 THE CLERK: Juror Number Four, is that your verdict?

5 JUROR NUMBER FOUR: Yes.

6 THE CLERK: Juror Number Five, is that your verdict?

7 JUROR NUMBER FIVE: Yes.

8 THE CLERK: Juror Number Six, is that your verdict?

9 JUROR NUMBER SIX: Yes.

10 THE CLERK: Juror Number Seven, is that your  
11 verdict?

12 JUROR NUMBER SEVEN: Yes.

13 THE CLERK: Juror Number Eight, is that your  
14 verdict?

15 JUROR NUMBER EIGHT: Yes.

16 THE CLERK: Juror Number Nine, is that your verdict?

17 JUROR NUMBER NINE: Yes.

18 THE CLERK: Juror Number Ten, is that your verdict?

19 JUROR NUMBER TEN: Yes.

20 THE CLERK: Juror Number Eleven, is that your  
21 verdict?

22 JUROR NUMBER ELEVEN: Yes.

23 THE CLERK: Juror Number Twelve, is that your  
24 verdict?

25 JUROR NUMBER TWELVE: Yes.

1 THE CLERK: Question two: Do you find that the  
2 government has proven beyond a reasonable doubt that a firearm  
3 was brandished by defendant Elgin Brack during and in relation  
4 to the crime charged in Count Eight? You answered yes.

5 Juror Number One, is that your verdict?

6 JUROR NUMBER ONE: Yes.

7 THE CLERK: Juror Number Two, is that your verdict?

8 JUROR NUMBER TWO: Yes.

9 THE CLERK: Juror Number Three, is that your  
10 verdict?

11 JUROR NUMBER THREE: Yes.

12 THE CLERK: Juror Number Four, is that your verdict?

13 JUROR NUMBER FOUR: Yes.

14 THE CLERK: Juror Number Five, is that your verdict?

15 JUROR NUMBER FIVE: Yes.

16 THE CLERK: Juror Number Six, is that your verdict?

17 JUROR NUMBER SIX: Yes.

18 THE CLERK: Juror Number Seven, is that your  
19 verdict?

20 JUROR NUMBER SEVEN: Yes.

21 THE CLERK: Juror Number Eight, is that your  
22 verdict?

23 JUROR NUMBER EIGHT: Yes.

24 THE CLERK: Juror Number Nine, is that your verdict?

25 JUROR NUMBER NINE: Yes.

1 THE CLERK: Juror Number Ten, is that your verdict?

2 JUROR NUMBER TEN: Yes.

3 THE CLERK: Juror Number Eleven, is that your  
4 verdict?

5 JUROR NUMBER ELEVEN: Yes.

6 THE CLERK: Juror Number Twelve, is that your  
7 verdict?

8 JUROR NUMBER TWELVE: Yes.

9 THE CLERK: All right. Thank you.

10 Your Honor, the jury has been polled.

11 THE COURT: Thank you, Mr. Deputy Clerk.

12 Does either side have any further need of the jury  
13 before I discharge them?

14 MR. SELDEN: Not on behalf of the government. Thank  
15 you, Your Honor.

16 MR. STEIN: No, thank you.

17 THE COURT: Thank you, Counsel.

18 Ladies and gentlemen, we thank you for your service.

19 At the very beginning, I had indicated to you how grateful we  
20 all were for the service you are about to perform and have now  
21 performed and I also indicated to you how difficult it was and  
22 how I held it to be the most difficult form of citizenship and  
23 patriotism other than putting on a uniform and defending your  
24 country in a time of war. The rule of law is dependent on  
25 good people like you putting aside their own business to

1 ensure that the rule of law and the justice that it supports  
2 can happen in our courts and we are extremely grateful for  
3 your services.

4 Now, all of those rules that I have been repeating  
5 to you throughout the trial, they no longer apply and you can  
6 do any and all of the things that I have told you that you  
7 couldn't do during the trial so that you're free to talk to  
8 anybody about this case to your heart's content.

9 Sometimes the lawyers involved in the case are  
10 interested in what you found and the conclusions you reached  
11 or why you reached them. If you are interested in engaging  
12 with them should they come back, stay a few extra minutes in  
13 the jury room and when we finish up in here, I will let the  
14 lawyers come back.

15 If you're not interested, you're free to go with our  
16 thanks because, again, we do deeply appreciate your service,  
17 particularly in current conditions. There is the fear of the  
18 unknown out there and we all know our society right now is  
19 facing great challenges due to this novel coronavirus that's  
20 sort of undefined and unpredictable and the fact that you have  
21 all managed to come here and perform your service is even more  
22 extraordinary and for that, you get an even greater note of  
23 thanks from all of us. So, again, thank you.

24 I wish you the balance of a good day and hope to see  
25 you back here again some day as jurors because your

1 attentiveness and your punctuality and your courteousness is  
2 appreciated by all. God luck and maybe we'll see you again.

3 (Jury exits at 3:00 p.m.)

4 THE COURT: All right. The motions that were  
5 reserved formally under Rule 29(a) and (b) are now denied.

6 Does anyone, counsel here on either side, have any  
7 further need of the Court before we adjourn this matter?

8 MR. SELDEN: Not on behalf of the government. Thank  
9 you, Your Honor.

10 MR. STEIN: Judge, I don't know if we plan to submit  
11 a written motion for a judgment of acquittal under Rule 29(c).  
12 I think the statutory period is seven days. I'm sure if we're  
13 going to do that, it's not going to happen in seven days so I  
14 would ask that you extend it to 30 days.

15 THE COURT: Certainly. And any other motion you  
16 want to make, in the 30s as well.

17 MR. STEIN: No. That's okay, Judge. Thirty days.

18 THE COURT: All right. Well, anything else?

19 The record will also reflect that obviously during  
20 the course of Probation's work, that when they reach out for  
21 Mr. Brack, you wish to be notified?

22 MR. STEIN: Yes, of course.

23 THE COURT: And the record will reflect that.

24 And, again, as I said to you, Counsel, on a number  
25 of occasions, the level of advocacy -- and I will note that



1 there was a lot of rough starts at the beginning of these  
2 proceedings. Counsel were acting more, unfortunately, like  
3 attorneys in civil cases rather than the customary courtesies  
4 that normally seemed to be extended by counsel in criminal  
5 cases. I detected a very steady progress over the course of  
6 the pretrial and then through the trial among counsel and that  
7 pleased the Court to no end, but I also indicated to you as  
8 well that the level of advocacy here was also above the norm  
9 on both sides and we appreciate that as well.

10 So good luck to Mr. Brack as the days unfold and,  
11 again, congratulations to counsel for a well tried case and I  
12 will see you on the next occasion.

13 MR. SELDEN: Thank you, Your Honor.

14 THE COURT: We are adjourned.

15 Again, Counsel, I don't know if anybody stayed back  
16 there. Mr. LoMonaco maybe, if he wants to go back, he can  
17 take a look.

18 MR. SELDEN: On behalf of the government, we're not  
19 going to head on back. Thank you, Your Honor.

20 THE COURT: I always extend the opportunity.

21 MR. SELDEN: Of course, Your Honor. Thank you so  
22 much.

23 MR. FARRELL: We'll waive our right to attend a  
24 meeting with the jury. Thank you.

25 (Matter concluded.)

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Exhibits:

Court's Exhibit 6	1173
Court's Exhibit 7	1173

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